



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

JAMES A WEISS MD  
6000 EXECUTIVE BLVD SUITE 300  
ROCKVILLE MD 20852

#### **Respondent Name**

ILLINOIS NATIONAL INSURANCE CO

#### **Carrier's Austin Representative Box**

Box Number 19

#### **MFDR Tracking Number**

M4-13-0542-01

#### **MFDR Date Received**

OCTOBER 23, 2012

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "I am asking for your help in resolving the attached claims. Chartis denied dates of service 08/03/2011 and 04/27/2012 stating the claims were not received within the time limit for filing...The *Insurance Submission Log* generated by our computer software, Medical Mastermind, is an industry standard for proof of timely filing."

**Amount in Dispute:** \$543.96

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "It is the Carrier's position that there is no additional money owed to the requestor, James A. Weiss, MD for the 8/3/2011 and 4/27/2012 dates of services for treatment. It appears that the bill for the 8/3/2011 date of service was not submitted until 3/19/2012, 4/6/2012 and again on 8/30/2012. The 4.27.2012 date of service was not submitted until 8/31/2012 and again on 9/24/2012. I have attached the EOR's. The bill was denied for timely filing per Rule 408.027."

**Response Submitted by:** AIG Dallas Worker's Compensation Service Center

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 3, 2011	CPT Code 99214-25	\$192.80	\$0.00
	CPT Code 97760-GP X 3	\$195.00	\$0.00
April 27, 2012	CPT Code 99213-24	\$156.16	\$0.00
TOTAL		\$543.96	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

## **Background**

1. 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, effective May 31, 2012, sets out the procedures for health care providers to pursue a medical fee dispute.
2. Texas Labor Code §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
3. 28 Texas Administrative Code §133.20, 34 *Texas Register* 430, effective January 29, 2009, sets out the procedure for healthcare providers submitting medical bills.
4. 28 Texas Administrative Code §102.4, 30 *Texas Register* 2396, effective May 1, 2005, sets out rules to determine when written documentation was sent.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:

### Explanation of benefits

- 29-The time limit for filing has expired.
- Date(s) of service exceed (95) day time period for submission per Rule 408.027 and Bulletin No. B-0037-05A.
- Z656-Any request for reconsideration of this workers' compensation payment should be accompanied by a copy of this explanation of review.
- X394-Our position remains the same if you disagree with our decision please contact the TWCC Medical Dispute Resolution.

## **Issues**

1. Did the requestor waive the right to medical fee dispute resolution for date of service August 3, 2011?
2. Did the requestor support position that disputed claims for date of service April 27, 2012 were submitted timely?

## **Findings**

1. 28 Texas Administrative Code §133.307(c)(1) states: "Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute." The date of the services in dispute is August 3, 2011. The request for medical dispute resolution was received in the Medical Dispute Resolution (MDR) section on October 23, 2012. This date is later than one year after the date(s) of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307, subparagraph (B). The Division concludes that the requestor has failed to timely file this dispute for date of service August 3, 2011 with the Division's MDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for August 3, 2011.
2. Texas Labor Code §408.027(a) states "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."  
28 Texas Administrative Code §133.20(b) states "A health care provider shall not submit a medical bill later than the 95th day after the date the services are provided."  
28 Texas Administrative Code §102.4(h) states "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:  
(1) the date received, if sent by fax, personal delivery or electronic transmission or,  
(2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."

The Requestor submitted a copy of a report titled Insurance Submission Log dated September 19, 2012 that lists for April 27, 2012, CPT codes 99024 and 99213 were submitted on 06/14/2012 and 08/30/2012.

The Division reviewed the submitted documentation and finds that the requestor did not submit a fax confirmation report, personal delivery or electronic transmission report, postmarked mail or signature date on

written communication in conjunction with the Insurance Submission Log to support position that the medical bill was sent timely.

The Division finds that the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill for the service in dispute in accordance with Texas Labor Code Section §408.027(a).

### **Conclusion**

In regards to date of service August 3, 2011, the Division finds that the requestor has waived the right to medical fee dispute resolution for the services in dispute. For that reason, the merits of the issues raised by both parties to this dispute have not been addressed.

In regards to date of service April 27, 2012, it is determined that the submitted documentation does not support the requestor timely submitted the medical bill in accordance with Texas Labor Code §408.027(a). For the reasons stated above, the division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

07/26/2013  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**